



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

Recommendations for Legislation

January 2012

The Council on Environmental Quality (CEQ) reports the condition of Connecticut's air, water, land and life every year in *Environmental Quality in Connecticut*. The Council also is required by law (CGS Section 22a-12) to recommend legislation "for remedying the deficiencies of existing programs and activities."

From its review of statewide environmental indicators and its investigation of citizen complaints, the Council has identified important deficiencies and offers appropriate recommendations in the following categories:

- Farms, Fields and Forests
- Inland Wetlands
- Rivers & Sound
- Deficiencies in Current Laws: problems discovered in the course of investigating complaints

On November 16, 2011 the Council held a public forum at which residents were invited to comment on draft recommendations. The Council received hours of commentary as well as many written comments. Speakers' testimony is summarized on the Council's website, and some of their specific comments are included with the recommendations that follow. The Council made many adjustments as a result of what it heard at the forum.

Questions and comments are welcome at

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Farms, Fields and Forests

Status and Trends

Connecticut will need to preserve at least 2,000 acres of farmland each year to meet its ultimate goal. For the first time in nearly 20 years, the Department of Agriculture met that mark in 2011.

The Farmland Preservation Advisory Board has identified and rated 1,300 acres of active farmland owned by the Departments of Mental Health and Addiction Services, Correction and other agencies that could be preserved at virtually no cost. Though owned by the state, these productive lands currently are not preserved in perpetuity.

Nobody knows how many acres of forest and other open space land have been preserved for conservation purposes throughout the state, or where Connecticut stands in relation to its statutory goal of preserving 21% of the land. It is clear, however, that the state itself is making very little progress toward its own goal of protecting the best ten percent through state ownership.

Recommendations for 2012

- No-cost acquisitions: Adopt legislation to**
 - o permanently protect farmland owned by state agencies by establishing a goal and process, and
 - o direct the Department of Energy and Environmental Protection (DEEP) to include in its 2012 revision of the "Green Plan" (CGS Section 23-8(b)) an assessment of undeveloped parcels owned by other state agencies that might warrant permanent conservation.
- Maintain the current capital budget for the Department of Agriculture's farmland preservation (through purchase of development rights) program.**
- Authorize sufficient funds (probably \$20 million) to preserve 12,000 acres per year of open space by DEEP and state grant recipients. This 12,000-acre annual target includes the hundreds or thousands of uncounted acres preserved annually by municipalities and land trusts at no cost to the state.**

From the Public Forum: *"This is the top priority that has been voiced by the land trust community [137 land trusts]. But for lack of state funding, we could move forward on the conservation transactions in our queue."* -- Amy Paterson, CT Land Conservation Council
- Improve the state's strategy for conserving land, especially for wildlife habitat. Require DEEP to identify the highest priority conservation lands in its 2012 revision of the "Green Plan".**
- Establish a registry of preserved lands, built on voluntary reporting by municipalities and private organizations. This could be accomplished by designating a registry created and operated by a nongovernmental organization.**

From the Public Forum: *"CACIWC [CT Association of Conservation and Inland Wetlands Commissions] is strongly in favor of establishing a statewide registry of preserved lands. Many of our member commissions will be pleased to contribute to such a registry."*

Inland Wetlands: Training is Needed

Status and Trends

Regulation of development in and around inland wetlands and watercourses is handled almost entirely by volunteer local commission members, of whom there are more than a thousand. Training is available, but too few complete the training, to the detriment of wetlands and landowner-applicants.

Training is an extremely low-cost approach to land conservation: commissions with members who have completed training allow less wetlands destruction than commissions that have no trained members. (Detailed statistical analysis is available in the CEQ Special Report, *Swamped*.)

Current law (CGS Section 22a-42(d)) requires each local wetlands commission to include one person who has completed the DEEP's comprehensive training program. Many towns do not comply with this requirement.

In 2011, DEEP made the first segment of the comprehensive training program available online, but there is a fee to complete the segment.

Wetlands account for about 15 percent of the state's surface.

Recommendations for 2012

□ Modify requirements and incentives for members and staff of municipal inland wetlands and watercourses agencies to complete training. Improvements should include

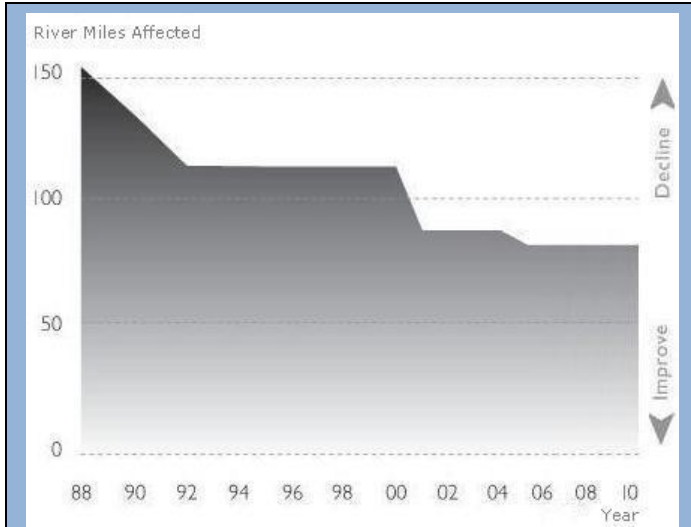
- **a requirement for all new members to complete "Basic Training," a new class of training that would be created by DEEP and would include an online training option,**
- **a requirement for locally-designated agents (usually town staff) to complete the annual training update to maintain their eligibility for enhanced authorities,**
- **more subsidies to allow more municipal officials to attend training or complete training online for free (for an additional state appropriation of \$12,000), and**
- **annual tracking and reporting by DEEP of municipalities' training status, including commissions' fulfillment of their current obligation to review training materials at a local meeting once each year. This can be achieved by modifying municipalities' current reports to DEEP.**

From the Public Forum: *"The CACIWC [Connecticut Association of Conservation and Inland Wetlands Commissions] board supports these recommendations."*

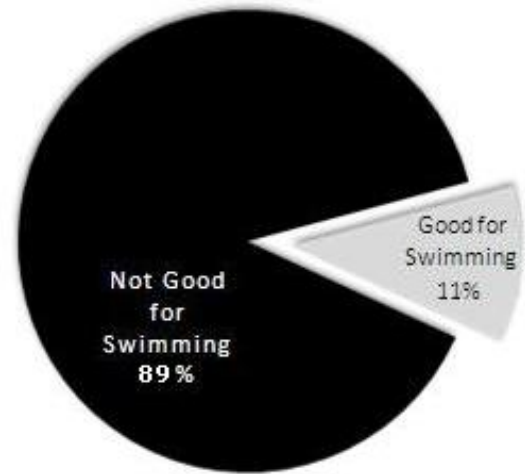
"We [Groton Open Space Association] support your recommendation of providing training for volunteer commission members...and for annual tracking and reporting by DEEP of municipalities' training status."

Rivers & Sound

Status and Trend Data from *Environmental Quality in Connecticut (April 2011)*:



Miles of Rivers Affected by Untreated Sewage Overflows from Combined Sanitary/Storm Sewers



Percentage of Rivers and Streams Suitable for Swimming

The state **Clean Water Fund** is the workhorse of Connecticut's campaign to rid its rivers of untreated sewage and to restore Long Island Sound. The Fund provides grants and loans to cities and towns to upgrade their sewage treatment systems, separate storm from sanitary sewers, and reduce nitrogen in the effluent. (Excessive nitrogen leads to depleted oxygen in Long Island Sound.) The source of the grant money is general obligation bonds, while the loan money is from revenue bonds sold by the state.

Connecticut's 50 years of progress in improving water quality might have peaked. Residents could find their rivers, streams and lakes declining in quality if more is not done to remove pollution from the runoff that flows from paved areas, farms and lawns. The challenge of managing these enormous sources of pollution will demand the state's continuous attention for many years.

Recommendations for 2012

- Maintain the current capital budget for the Clean Water Fund to improve sewage treatment plants and separate storm sewers from sanitary sewers.**
- Require DEEP to analyze statewide capital requirements for reducing pollution from runoff.**

From the Public Forum: *"Connecticut's infrastructure and planning standards are outdated. [For example], the pervious concrete at the Capitol seems new to Connecticut residents but not to the rest of the country."* -- Mary Rickel Pelletier, Park River Watershed Revitalization Initiative.

Deficiencies in Current Laws

Through its investigation of citizen complaints, the Council identifies gaps or deficiencies in existing laws and programs that result in inadequate protection of the public. The following recommendations arose from Council investigations.

Remediating Contaminated Properties and Providing Potable Water

The laws and regulations governing property clean-up have over three decades become a complicated web. A thoughtful overhaul is required. Preliminary proposals were published by DEEP in December 2011.

Responsibilities pertaining to the provision of drinking water to communities and homeowners with contamination problems are divided among DEEP, the Department of Public Health and local officials. Inefficiencies abound, potentially burdening DEEP's remediation programs, and no single person or agency has authority to solve problems, some of which linger for decades.

Recommendations for 2012

- Overhaul and consolidate remediation programs to allow DEEP and the private sector to move faster.
- Consolidate into one agency the programs that govern the provision of potable water to homeowners and communities with contaminated wells.

All-Terrain Vehicles

Illegal use of ATVs damages trails, parks, nature preserves and other properties. Enforcement is difficult.

Recommendation for 2012

- Improve law enforcement agencies' ability to enforce existing laws by 1) requiring registration and 2) including forfeiture of the vehicle as a potential penalty.

From the Public Forum: *The Council heard from the New England Trail Riders Association that legal trails are needed to curtail illegal riding. The Connecticut Forest and Park Association said that ATVs are the largest problem facing the volunteer maintainers of Connecticut's hiking trails.*

Illegal Tree Destruction

A person who deliberately cuts trees on another person's property without permission will owe almost nothing in damages, if a civil action ever is brought.

Recommendation for 2012

- In civil court, allow victims of illegal tree cutting to recover costs of replanting and restoration. This would extend to *all* landowners the remedies made available to *public* landowners with great success under P.A. 06-89 (CGS Section 52-560a, encroachments on open space lands).

Air Pollution from Outdoor Wood Furnaces

Much DEEP staff time is consumed by responding to complaints about outdoor wood furnaces (OWFs), which are subject to set-back requirements but no emission limits.

Recommendations: 1) Enact a moratorium on outdoor wood furnaces until DEEP adopts regulations that establish maximum emission levels. 2) Require DEEP to adopt regulations governing maximum emission levels from OWFs, both new and existing, by 2014. 3) Authorize DEEP to enforce the statute and regulations through administrative action. 4) Clarify ambiguous aspects of the statute, including the point of a residence from which distances are measured, and the obligation for *all* OWFs to burn clean wood only. 5) Clarify that local building officials and health officials regulate OWFs, and allow municipalities to collect the penalties.

From the Public Forum: *"The current requirements are not only insufficient to protect the public's health from OWF emissions but also challenge the resources of local public health departments, which must investigate every complaint."* -- Alyssa Norwood, Connecticut Association of Directors of Health

Tower Siting

Applicants to the Connecticut Siting Council for telecommunications towers must notify abutting landowners, but those landowners often are not the people who bear the impacts. Most applications identify the addresses with views of the proposed tower, but that information is not used.

Recommendation for 2012

□ Amend CGS Section 16-50(b) to require notice of any application to the Connecticut Siting Council for a telecommunications tower to be sent to owners of properties that will have a view of the tower.

For Further Study

At its November 16, 2011 public forum, the Council heard many good suggestions that went beyond the Council's own draft recommendations. Some were added to the list and appear on previous pages. The Council continues to analyze the others and will offer additional recommendations in the near future. Some of the environmental remedies suggested by the public include:

- Allow municipalities and regional governments to regulate the use of pesticides and other sources of nonpoint water pollution.
- Establish a "shelf-life" for environmental impact evaluations.
- Close gaps in current laws regarding testing and reporting by private laboratories.
- Lower the threshold for DEEP review of proposed diversions.
- Create more accountability for engineers and other professionals who certify applications.
- Allow state agencies to pay more for Connecticut Grown products.
- Improve bicycle & pedestrian infrastructure; update planning standards for all infrastructure; expand regional solutions.
- Expand product stewardship laws.
- Analyze the environmental consequences of the property tax.
- Develop a way to assure permanent protection of state conservation lands.
- Resolve potential conflict between recreational liability statute and land-posting requirements of Americans with Disabilities Act.
- Assess excessive prescription of pharmaceuticals that could harm people and waterways.
- Reduce allowable impervious pavement.
- Do not allow towns to offer open-space "credit" to subdivision applicants for unqualified lands.